

IN THE SENATE

SENATE BILL NO. 1049, As Amended in the House

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

RELATING TO THE OIL AND GAS CONSERVATION COMMISSION; AMENDING SECTION 47-317, IDAHO CODE, TO REMOVE REFERENCE TO THE STATE BOARD OF LAND COMMISSIONERS COMPRISING THE COMMISSION, TO PROVIDE FOR COMMISSION MEMBERSHIP, TO PROVIDE FOR TERMS OF OFFICE, TO PROVIDE FOR VACANCIES, TO PROVIDE FOR OFFICERS, TO PROVIDE FOR MEETINGS, TO PROVIDE FOR A QUORUM, TO PROVIDE FOR COMPENSATION, TO PROVIDE FOR THE SECRETARY OF THE COMMISSION, TO PROVIDE FOR PERSONNEL, TO PROVIDE THAT ALTERNATIVELY THE COMMISSION MAY CONTRACT WITH THE DEPARTMENT OF LANDS AND TO PROVIDE FOR HEARING OFFICERS; AMENDING SECTION 47-319, IDAHO CODE, TO AUTHORIZE THE COMMISSION TO APPOINT COMMITTEES FOR THE PURPOSE OF ADVISING THE COMMISSION ON MATTERS RELATING TO OIL AND GAS; AND AMENDING SECTION 47-321, IDAHO CODE, TO PROVIDE THAT APPLICATIONS FOR EXCEPTIONS TO SPACING ORDERS SHALL BE FILED WITH THE COMMISSION, TO REMOVE PROVISIONS REGARDING THE PROCESS ASSOCIATED WITH COMMISSION REVIEW RELATING TO EXCEPTIONS THAT WERE NOT GRANTED BY THE DIRECTOR OF THE DEPARTMENT OF LANDS OR OBJECTIONS TO ACTIONS OF THE DIRECTOR AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 47-317, Idaho Code, be, and the same is hereby amended to read as follows:

47-317. OIL AND GAS CONSERVATION COMMISSION CREATED -- POWERS -- LIMIT ON LOCAL RESTRICTIONS -- ATTORNEY GENERAL. (1) There is hereby created an oil and gas conservation commission of the state of Idaho ~~which shall consist of the state board of land commissioners.~~ The commission shall consist of five (5) members appointed by the governor with the advice and consent of the senate. The members shall serve at the pleasure of the governor. One (1) member shall be knowledgeable in oil and gas matters, one (1) member shall be knowledgeable in geological matters, one (1) member shall be knowledgeable in water matters, one (1) member shall be a private landowner who owns mineral rights with the surface in a county with oil and gas activity and one (1) member shall be a private landowner who does not own mineral rights.

(2) The term of office of each member of the commission shall be four (4) years, except that upon July 1, 2013, the governor shall appoint one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years and two (2) members for terms of four (4) years. After the initial appointment, the governor shall appoint members to serve in office for a term of four (4) years commencing on July 1. A vacancy shall be filled by appointment for the unexpired term in the same manner provided for an appointment to the full term.

(3) The commission shall annually elect a chairman and a vice chairman from their membership. Such officers shall hold their respective offices until their successors are elected. If a vacancy occurs in either office,

1 the commission shall elect a member to fill such office for the remainder of  
2 the term.

3 (4) The commission shall meet at least annually and thereafter on dates  
4 set by the commission. A majority of the voting members shall constitute a  
5 quorum.

6 (5) The members of the commission shall be compensated as provided in  
7 section 59-509(n), Idaho Code.

8 (6) Unless the commission appoints another person to be the secretary  
9 of the commission, the director of the department of lands shall be the sec-  
10 retary of the commission.

11 (7) The commission may employ personnel as may be deemed necessary,  
12 prescribe their duties and fix their compensation. In the alternative, the  
13 commission may contract with the department of lands for services.

14 (8) The commission shall have and is hereby given jurisdiction and  
15 authority over all persons and property, public and private, necessary to  
16 enforce the provisions of this act, and shall have power and authority to  
17 make and enforce rules, regulations and orders, and do whatever may reason-  
18 ably be necessary to carry out the provisions of this act. Any delegation  
19 of authority to any other state officer, board or commission to administer  
20 any and all other laws of this state relating to the conservation of oil and  
21 gas is hereby rescinded and withdrawn and such authority is hereby unquali-  
22 fiedly conferred upon the commission, as herein provided. Any person, or the  
23 attorney general, on behalf of the state, may apply for a hearing before the  
24 commission, or the commission may initiate proceedings, upon any question  
25 relating to the administration of this act, and jurisdiction is hereby con-  
26 ferred upon the commission to hear and determine the same and enter its rule,  
27 regulation or order with respect thereto. The commission may designate  
28 hearing officers who shall have the power and authority to conduct hearings  
29 in the name of the commission at any time and place in accordance with the  
30 provisions of chapter 52, title 67, Idaho Code.

31 (39) It is the intent of the legislature to occupy the field of the reg-  
32 ulation of oil and gas exploration and production with the limited exception  
33 of the exercise of planning and zoning authority granted cities and counties  
34 pursuant to chapter 65, title 67, Idaho Code.

35 (410) To implement the purpose of the oil and gas conservation act, and  
36 to advance the public interest in the orderly development of the state's oil  
37 and gas resources, while at the same time recognizing the responsibility of  
38 local governments to protect the public health, safety and welfare, it is  
39 herein provided that:

40 (a) The commission will notice the respective city or county with ju-  
41 risdiction upon receipt of an application and will remit, electroni-  
42 cally, a copy of all application materials.

43 (b) No ordinance, resolution, requirement or standard of a city, county  
44 or political subdivision, except a state agency with authority, shall  
45 actually or operationally prohibit the extraction of oil and gas; pro-  
46 vided however, that extraction may be subject to reasonable local or-  
47 dinance provisions, not repugnant to law, which protect public health,  
48 public safety, public order or which prevent harm to public infrastruc-  
49 ture or degradation of the value, use and enjoyment of private property.  
50 Any ordinance regulating extraction enacted pursuant to chapter 65,

1 title 67, Idaho Code, shall provide for administrative permitting un-  
 2 der conditions established by ordinance, not to exceed twenty-one (21)  
 3 days, unless extended by agreement of the parties or upon good cause  
 4 shown.

5 (c) No ordinance, resolution, requirement or standard of a city, county  
 6 or political subdivision, except a state agency with authority, shall  
 7 actually or operationally prohibit construction or operation of facil-  
 8 ities and infrastructure needed for the post-extraction processing and  
 9 transport of gas and oil. However, such facilities and infrastructure  
 10 shall be subject to local ordinances, regulations and permitting re-  
 11 quirements, not repugnant to law, as provided in chapter 65, title 67,  
 12 Idaho Code.

13 (~~5~~11) The commission may sue and be sued in its administration of this  
 14 act in any state or federal district court in the state of Idaho having juris-  
 15 diction of the parties or of the subject matter.

16 (~~6~~12) The attorney general shall act as the legal advisor of the com-  
 17 mission and represent the commission in all court proceedings and in all pro-  
 18 ceedings before it, and in any proceeding to which the commission may be a  
 19 party before any department of the federal government.

20 SECTION 2. That Section 47-319, Idaho Code, be, and the same is hereby  
 21 amended to read as follows:

22 47-319. LAND SUBJECT TO ACT -- AUTHORITY OF COMMISSION. (1) This act  
 23 shall apply to all lands located in the state, however owned, including any  
 24 lands owned or administered by any government or any agency or political sub-  
 25 division thereof, over which the state under its police power, has jurisdic-  
 26 tion.

27 (2) The commission is authorized and it is its duty to regulate the ex-  
 28 ploration for and production of oil and gas, prevent waste of oil and gas and  
 29 to protect correlative rights, and otherwise to administer and enforce this  
 30 act. It has jurisdiction over all persons and property necessary for such  
 31 purposes. In the event of a conflict, the duty to prevent waste is paramount.

32 (3) The commission is authorized to make such investigations as it  
 33 deems proper to determine whether action by the commission in discharging  
 34 its duties is necessary.

35 (4) The commission is authorized to appoint, as necessary, committees  
 36 for the purpose of advising the commission on matters relating to oil and  
 37 gas.

38 (5) Without limiting its general authority, the commission shall have  
 39 the specific authority to require:

40 (a) Identification of ownership of oil or gas wells, producing leases,  
 41 tanks, plants, structures, and facilities for the transportation or re-  
 42 fining of oil and gas;

43 (b) The taking and preservation of samples and the making and filing  
 44 with the commission of true and correct copies of well logs and direc-  
 45 tional surveys both in form and content as prescribed by the commission;  
 46 provided however, that logs of exploratory or wildcat wells marked con-  
 47 fidential shall be subject to disclosure according to chapter 3, title  
 48 9, Idaho Code, and shall be kept confidential by the commission for a  
 49 period of one (1) year from the date of filing the log with the commis-

1 sion. And provided that the commission may use any well logs and direc-  
 2 tional surveys in any action to enforce the provisions of this chapter  
 3 or any order or rule adopted hereunder. And provided further, that af-  
 4 ter four (4) months from the effective date of this act, the commission  
 5 may require the owner of a well theretofore drilled for oil or gas to  
 6 file within four (4) months of such order a true and correct copy of the  
 7 log or logs of such well;

8 (c) The drilling, casing, operation and plugging of wells in such man-  
 9 ner as to prevent: (i) the escape of oil or gas out of one (1) pool into  
 10 another; (ii) the detrimental intrusion of water into an oil or gas pool  
 11 that is avoidable by efficient operations; (iii) the pollution of fresh  
 12 water supplies by oil, gas, or salt water; (iv) blow-outs, cavings,  
 13 seepages, and fires; and (v) waste as hereinabove defined;

14 (d) The taking of tests of oil or gas wells;

15 (e) The furnishing of a reasonable performance bond with good and suf-  
 16 ficient surety, conditioned upon the performance of the duty to comply  
 17 with the requirements of this law and the regulations of the commission  
 18 with respect to the drilling, maintaining, operating and plugging of  
 19 each well drilled for oil or gas;

20 (f) That the production from wells be separated into gaseous and liquid  
 21 hydrocarbons, and that each be measured by means and upon standards that  
 22 may be prescribed by the commission;

23 (g) That wells not be operated with inefficient gas-oil or water-oil  
 24 ratios, and to fix these ratios, and to limit production from wells with  
 25 inefficient gas-oil or water-oil ratios;

26 (h) Metering or other measuring of oil, gas, or product;

27 (i) That every person who produces oil and gas in the state keep and  
 28 maintain for a period of five (5) years complete and accurate records  
 29 of the quantities thereof, which records, or certified copies thereof,  
 30 shall be available for examination by the commission or its agents at  
 31 all reasonable times within said period, and that every such person file  
 32 with the commission such reasonable reports as it may prescribe with re-  
 33 spect to such oil or gas production; and

34 (j) The filing of reports of plats with the commission that it may pre-  
 35 scribe.

36 (~~56~~) Without limiting its general authority, and without limiting the  
 37 authority of other state agencies or local government as provided by law, the  
 38 commission shall have the specific authority to regulate:

39 (a) The drilling and plugging of wells and the compression or dehydra-  
 40 tion of produced oil and gas, and all other operations for the produc-  
 41 tion of oil and gas;

42 (b) The shooting and treatment of wells;

43 (c) The spacing or locating of wells;

44 (d) Operations to increase ultimate recovery, such as cycling of gas,  
 45 the maintenance of pressure, and the introduction of gas, water, or  
 46 other substances into a producing formation; and

47 (e) The disposal of salt water and oil-field wastes.

48 (~~67~~) The commission is authorized to classify and reclassify pools as  
 49 oil, gas, or condensate pools, or wells as oil, gas, or condensate wells.

1       (78) The commission is authorized to make and enforce rules, regula-  
 2 tions, and orders reasonably necessary to prevent waste, protect correla-  
 3 tive rights, to govern the practice and procedure before the commission, and  
 4 otherwise to administer this act.

5       SECTION 3. That Section 47-321, Idaho Code, be, and the same is hereby  
 6 amended to read as follows:

7       47-321. SPACING UNITS. (a) The commission shall promptly establish  
 8 spacing units for each pool except in those pools that have been developed to  
 9 such an extent that it would be impracticable or unreasonable to establish  
 10 spacing units at the existing stage of development.

11       (b) An order establishing spacing units shall specify the size and  
 12 shape of the units, which shall be such as will, in the opinion of the com-  
 13 mission, result in the efficient and economical development of the pool as  
 14 a whole. The size of the spacing units shall not be smaller than the maximum  
 15 area that can be efficiently and economically drained by one (1) well; pro-  
 16 vided, that if, at the time of a hearing to establish spacing units there is  
 17 not sufficient evidence from which to determine the area that can be effi-  
 18 ciently and economically drained by one (1) well, the commission may make an  
 19 order establishing temporary spacing units for the orderly development of  
 20 the pool pending the obtaining of the information required to determine what  
 21 the ultimate spacing should be.

22       (c) Except where circumstances reasonably require, spacing units shall  
 23 be of approximately uniform size and shape for the entire pool. The commis-  
 24 sion may establish spacing units of different sizes or shapes for different  
 25 parts of a pool or may grant exceptions to the size or shape of any spacing  
 26 unit or units or may change the sizes or shape of one (1) or more existing  
 27 spacing units.

28       (d) An order establishing spacing units shall direct that no more  
 29 than one (1) well shall be drilled to and produced from the common source  
 30 of supply on any unit, and shall specify the location for the drilling of a  
 31 well thereon, in accordance with a reasonably uniform spacing pattern, with  
 32 necessary exceptions for wells drilled or drilling at the time of the fil-  
 33 ing of the application. If the commission finds that a well drilled at the  
 34 prescribed location would not be likely to produce in paying quantities, or  
 35 that surface conditions would substantially add to the burden or hazard of  
 36 drilling such well, or for other good cause shown, the commission is autho-  
 37 rized to make an order permitting the well to be drilled at a location other  
 38 than that prescribed by such spacing order. Application for an exception  
 39 shall be filed with the ~~director of the Idaho department of lands~~ commission  
 40 and may be granted ~~by him~~ where it is shown that good cause for such exception  
 41 exists and that consent to such exception has been given by the owners of  
 42 all drilling units directly or diagonally offsetting the drilling unit for  
 43 which an exception is requested, and, as to the lands upon which drilling  
 44 units have not been established, by the owners of those lands which would  
 45 be included in directly or diagonally offsetting drilling units under said  
 46 order, if said order were extended to include such additional lands. ~~Where~~  
 47 ~~an exception is not granted by the director or where an objection to the~~  
 48 ~~action of said director is filed with the commission within ten (10) days~~  
 49 ~~after he has granted or denied the application no well shall be drilled on~~

1 ~~said drilling unit except in accordance with the order establishing drilling~~  
2 ~~units, unless and until the commission shall, after notice and hearing upon~~  
3 ~~the application, grant such exception.~~

4 (e) An order establishing spacing units for a pool shall cover all lands  
5 determined or believed to be underlaid by such pool, and may be modified by  
6 the commission from time to time to include additional lands determined to be  
7 underlaid by such pool or to exclude lands determined not to be underlaid by  
8 such pool.

9 (f) An order establishing spacing units may be modified by the commis-  
10 sion to change the size or shape of one (1) or more spacing units, or to permit  
11 the drilling of additional wells on a reasonably uniform pattern.

12 (g) Upon the filing of an application to establish spacing units, no ad-  
13 ditional well shall be commenced for production from the pool until the or-  
14 der establishing spacing units has been made, unless the commencement of the  
15 well is authorized by order of the commission.